

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
WHEELING DIVISION**

**DIANA MEY, individually and on behalf of a  
class of all persons and entities similarly  
situated,**

**Plaintiff,**

**v.**

**Civil Action No. 5:15-cv-00101-JPB  
Hon. John Preston Bailey**

**GOT WARRANTY, INC., N.C.W.C., INC.,  
PALMER ADMINISTRATIVE SERVICES,  
INC., and GANNA FREIBERG,**

**Defendants.**

**Declaration of John W. Barrett**

1. I am submitting this declaration to show, as required by Rule 23(g) of the Federal Rules of Civil Procedure, “the work counsel has done in identifying or investigating potential claims in the action; counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; counsel’s knowledge of applicable law; and the resources that counsel will commit to representing the class[.]”

2. I have practiced law for almost 20 years. I received a B.A. from the University of Pennsylvania in 1988, and my law degree from Boston University School of Law, *cum laude*, in 1996. From 1996 through 1998 I clerked for Charles H. Haden II, Chief Judge of the United States District Court for the Southern District of West Virginia. I have practiced in Charleston, West Virginia my entire career. I practiced with a two-lawyer firm for three years, then as a sole practitioner for three years. I joined Bailey & Glasser LLP as a partner in 2005.

3. Since then, we have grown from seven lawyers to 55 lawyers, with offices in eight locations. I am the firm’s Chief Operating Officer, and am also responsible for overseeing our

entire contingent-fee practice, which spans areas ranging from product liability class actions such as the Toyota sudden acceleration and Volkswagen diesel fraud multi-district litigations (where we serve in court-appointed leadership roles), to antitrust cases, to ERISA breach of fiduciary duty cases, to consumer protection class actions, and to Telephone Consumer Protection Act cases such as this one.

3. I have practiced in consumer class actions for more than 15 years, and more specifically in TCPA class actions for approximately the last ten years.

4. I am AV rated by Martindale-Hubbell. I am a member of Public Justice; the West Virginia and American Associations for Justice; the John A. Field, Jr. Chapter of the American Inn of Courts; and the National Association of Consumer Advocates, which among other things maintains comprehensive standards and guidelines for litigating and settling consumer class actions in an effort to promote the ethical and proper use of the class action device. *See* 176 F.R.D. 375 (published in 1998, fully updated in 2006 and 2014).

5. My class, mass, and consumer protection cases include:

- *Krakauer v. DISH Network, LLC*, No. 14-333 (M.D.N.C.) (obtaining \$20.5 jury verdict on behalf of more than 18,000 individuals in TCPA class action).
- *Generic Drug Litigation (State of West Va. v. Rite Aid of West Va., Civil Action No. 09-C-27; and State of West Va. v. CVS Pharmacy, Inc., Civil Action No. 09-C-226 (Circuit Court of Boone County, West Virginia) (serving as Special Assistant Attorney General, won settlements of more than \$10 million in *parens patriae* consumer protection litigation);*
- *Carter v. Forjas Taurus SA et al.*, Civil Action No. 1:13-CV-24583 (S.D. Fla.) (class counsel for unprecedented product liability class action against Brazilian pistol manufacturer; settlement provides for the free exchange of defective pistols for new, nondefective pistols (unlimited by any claims period), or cash payments of up to \$30 million for returned pistols; total value of settlement \$240 million);
- *Desai v. ADT Security*, Civil Action No. 11-C-1925 (N.D. Ill.) (\$15 million TCPA settlement for nationwide class);

- *Mey v. Herbalife International, Inc.*, Civil Action No. 01-C-263 (Circuit Court of Ohio County, West Virginia) (\$7 million nationwide class action settlement alleging violations of the TCPA);
- *Shonk v. SG Sales Co.*, Civil Action No. 07-C-1800 (Circuit Court of Kanawha County, West Virginia) (\$2.45 million nationwide settlement of TCPA class action);
- *Brooks v. City of Huntington*, Civil Action No. 11-C-125 (Circuit Court of Wayne County, West Virginia) (lead trial counsel 2011 jury trial for 40 Huntington residents whose homes and properties were flooded by a municipal stormwater control system; total recovery exceeded \$1 million);
- *Ooten v. Massey Coal*, Civil Action No. 02-C-203 (Circuit Court of Mingo County, West Virginia) (trial counsel in two-phase, six-week jury trial alleging mining company damaged the groundwater supplies of coalfield residents; total cash recovery was \$3.2 million, plus injunctive relief);
- *Cummins v. H & R Block, Inc.*, Civil Action No. 03-C-134 (Circuit Court of Kanawha County, West Virginia) (consumer class action resulting in \$62.5 million multistate settlement, including \$32.5 million for West Virginia consumers);
- *State of West Va. ex rel. Darrell V. McGraw v. Microsoft Corporation*, Civil Action No. 01-C-197 (Circuit Court of Boone County, West Virginia) (*parens patriae* antitrust and consumer protection action; settlement valued at more than \$20 million);
- *Anderson v. Provident Bank*, Civil Action No. 04-C-199 (Circuit Court of Mercer County, West Virginia) (predatory mortgage lending class action settled for \$8.1 million on behalf of 140 class members);
- *Hardwick v. Rent-A-Center, Inc.*, Civil Action No. 3:06-0901 (S.D. W. Va.) (class action settlement worth more than \$5 million; alleging violations of state Consumer Goods Rental Protection Act);
- *Dillon v. Chase Bank*, Civil Action No. 03-C-164 (Circuit Court of Hancock County, West Virginia) (\$3.3 million class action settlement for West Virginia borrowers who alleged illegal loan-servicing claims);
- *Casto v. City National Bank*, Civil Action No. 10-C-1089 (Circuit Court of Kanawha County, West Virginia) (settlement of overdraft fee class action brought under West Virginia consumer protection statute; settlement valued at \$5.5 million);

- *Triplett v. NationStar Mortgage*, Civil Action No. 3:11cv238 (S.D. W. Va.) (\$1.5 million loan servicing class action settlement for West Virginia class under state consumer protection statute).
- *Muhammad v. National City Mortgage Co.*, Civil Action No. 207-0423 (S.D. W. Va.) (\$700,000 mortgage loan servicing settlement alleging violations of the West Virginia Consumer Credit and Protection Act);
- *Dijkstra v. Carenbauer*, Civil Action No. 5:11-CV-152 (N.D. W. Va.) (\$690,000 settlement of class action against loan servicer, and \$1.9 million settlement with loan originator).

6. I, as part of a team effort including my partner Jonathan Marshall; Anthony Paronich and Ted Broderick of Broderick & Paronich, P.C.; and Matthew P. McCue, worked diligently to prosecute the claims of the proposed class. Prior to filing to Complaint, we investigated the factual basis for Ms. Mey's claims and researched applicable legal issues. We also gathered Ms. Mey's records and obtained all information possible about the defendants.

7. Once the complaint was filed, we litigated aggressively at every stage, procuring discovery and compelling responses when necessary, and engaging in substantial motions practice. We also performed due diligence concerning the Defendants' financial condition and ability to pay.

8. After a year of litigation, the parties engaged in an arms-length mediation before Webster J. Arceneaux, III, which resulted in the Settlement Agreement now awaiting the Court's approval.

9. Based on my decades of experience litigating TCPA and other consumer class actions, the Settlement Agreement is fair and adequate—indeed, it is an excellent outcome for the class given the risks of continued litigation and the Defendants' precarious financial condition.

Executed this 5th day of April, 2017.

/s/ John W. Barrett  
John W. Barrett